IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 490 OF 2003

The State of Maharashtra .. Appellant

versus

Jayram Subayya Shetty .. Respondent

...

Mr.A.S. Gadkari for the appellant.

None for the respondent.

CORAM : V.M. KANADE, J

DATED : 14th September 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State.

2. The State is challenged the judgement and order passed by Chief Judicial Magistrate whereby he has acquitted the respondent accused who was charged under the provisions of Prevention of Food Adulteration Act 1954. The learned APP has submitted

that the trial Court has erred in coming to the conclusion that there was a breach of Rule 9B. It is submitted that the accused had not exercised his right under section 13(2) of the said Act. It was further submitted that the trial Court had further erred in holding that the complainant had not cleaned the sample bottles personally.

3. I have perused the judgement and order of the trial Court. In my view, there is no reason to interfere with the said order. As the trial Court has after taking into consideration the evidence of PW no.1 has come to the conclusion that the bottles were not cleaned. Similarly, the trial Court has also perused the panchnama at Exhibit-16 which also do not disclose that the sample bottles were cleaned and dried before the sample is poured in that. Rule 14 is mandatory and non compliance of the said Rule would be an obvious lacunae in the prosecution case. Thus, there is no reason to interfere with the order passed by the trial Court.

4. Leave refused. Appeal is rejected.

V.M.KANADE, J